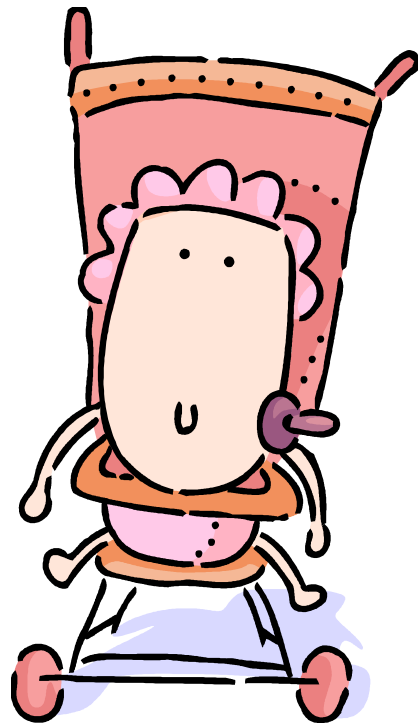


Uniform Definition of a Child (UDOC)



**Overview for LITC Conference
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Description Of Change

- **Beginning in 2005, the term “dependent” has been re-defined to mean:**
 - **A qualifying child (QC) , or**
 - **A qualifying relative (QR)**
- **In establishing two types of dependent exemptions, each of which has its own set of requirements, the Working Families Tax Relief Act of 2004 generally standardized the requirements for:**
 - **Exemptions for Children**
 - **EITC**
 - **Child Tax Credit**
 - **Child and Dependent Care Credit**
 - **Head of Household Filing Status**

Overview of the Rules for Claiming an Exemption for a Dependent

You can claim an exemption for a QC or QR only if these three tests are met.

- 1. Dependent taxpayer test.**
- 2. Joint return test.**
- 3. Citizen or resident test.**

Dependent Taxpayer Test

You cannot claim any dependents **IF**;

You, or your spouse, if filing jointly, could be claimed as a dependent by another taxpayer – even if you have a QC or QR.

Joint Return Test

- You cannot claim a married person who files a joint return as a dependent unless that joint return is only a claim for refund and there would be no tax liability for either spouse on separate returns.

Joint Return Test - Example

Your son and his wife each had less than \$3,000 in wages and no unearned income. Neither is required to file a tax return. Taxes were taken out of their pay, so they filed a joint return to get a refund. You are not disqualified from claiming their exemptions just because they filed a joint return.

Citizen Or Resident Test

- You cannot claim a person as a dependent unless that person is a U.S. citizen, U.S. resident, U.S. national, or a resident of Canada or Mexico, for some part of the year.
- There is an exception for certain adopted children.

What's New For 2005?



**You can not claim a
person as a
dependent unless that
person is your QC or
QR.**

Qualifying Child (QC) or Qualifying Relative (QR)

- If the taxpayer fails any of the tests for a QC, he may be able to claim the exemption as a QR.
- Exemptions for a qualifying relative do not entitle the taxpayer to Earned Income Credit (EIC), Child Tax Credit (CTC) or Child and Dependent Care Credit (CDCC).
- QC for CTC must still be under 17 at the end of the year.
- UDOC has little affect on EITC rules.

Tests To Be A QC

There are five tests that must be met for a child to be your QC. The five tests are:

1. Relationship,
2. Age,
3. Residency,
4. Support, and
5. Special test for QC of more than one person or "Tie-breaker rule."

QC Relationship Test

- The child must be your son, daughter, stepchild, eligible foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them.
- Adopted child is always treated as your own child.

QC Relationship Test Can't.

- An eligible foster child is an individual who is placed with you by a authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

QC Age Test

- The child must be (a) under age 19 at the end of the year (EOY), (b) under age 24 at EOY and a full time student, or (c) any age if permanently and totally disabled.
- Example – your son turned 19 on December 10. Unless he was disabled or a full time student, he does not meet the age test. He may still be a QR however – discussed later.

QC Residency Test

The child must have lived with you for more than half of the year.

Exceptions:

- Temporary absences.
- Children who were born or died during the year.
- Kidnapped children.
- Children of divorced or separated parents.

Children Of Divorced Or Separated Parent QC Special Rule

A child will be treated as the **QC of the noncustodial parent** if all of the following applies:

1. The parents:
 - a. Are divorced or legally separated under a decree of divorce or separate maintenance,
 - b. Are separated under a written separation agreement, or
 - c. Lived apart at all times during the last 6 months of the year.

Children Of Divorced Or Separated Parent QC Special Rule Con't.

2. The child
Received over half of his or her support for the year from the parents.
3. The child
Is in the custody of one or both parents for > then half the year.
4. A decree of divorce or separate maintenance or written separation agreement that applies to 2005 provides that the noncustodial parent can claim the child as a dependent **or**;

Children Of Divorced Or Separated Parent QC Special Rule Con't.

The custodial parent signs a written declaration **(Form 8332 or similar statement)** that he or she will not claim the child as a dependent for the year.

Note:

- A) The custodial parent is the parent with whom the child lived with the most during the year.
- B) This special rule also applies to parents who never married.

QC Support Test

- The child must not have provided more than half of his or her own support for the year.
- *Worksheet for Determining Support* found in *IRS Publication 501* is very helpful.

QC Tie Breaker Rule

- If you and another person have the same QC, you and the other person(s) can decide which of you will treat the child as a QC. That person can take the:
 - The exemption for the child.
 - The child tax credit.
 - Head of Household filing status.
 - Credit for child and dependent care.
 - The earned income credit.
- You can not divide the tax benefits.

QC Tie Breaker Rule Con't

IF more than one person files a return claiming the same QC and ...	THEN the child will be treated as the QC of the ...
only one of the persons is the child's parent,	parent.
two of the persons are parents of the child and they do NOT file a joint return together,	parent with whom the child lived for the longer period of time during the year.

QC Tie Breaker Rule Con't

IF more then one person files a return claiming the same QC and ...	THEN the child will be treated as the QC of the ...
two of the persons are parents of the child, they do not file a joint return together, and the child lived with each parent the same amount of time during the year,	parent with the highest adjusted gross income (AGI).
none of the persons are child's parent.	person with the highest AGI .

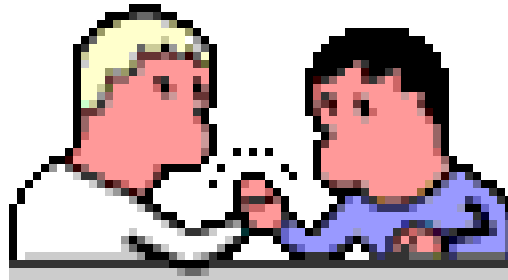
QC Tie Breaker Rule Con't

The tie breaker rules do not apply when using the special test for divorced or separated parents (D or SP).

- If the child is treated as the QC of the noncustodial parent (NCP) using the special rules for D or SP then the NCP can claim an exemption and the CTC for the child but cannot claim the child as a QC for HOH, CDCC or EITC.

QC Tie Breaker Rule Con't

Finally -- If you all can't decide the IRS will.



Tests To Be A Qualifying Relative (QR)

There are four tests that must be met:

1. Not a QC test,
2. Member of household or relationship test,
3. Gross income test, and
4. Support test.

Note: a QR can be any age.

Not A QC Test

A child is not your QR if the child is your QC or QC of anyone else.

Example 1 – Your 2 year old son lives with your parents and meets all the tests to be their QC. He is not your QR.

Example 2 – Your son lives with you but is not your QC because he is 30 and does not meet the QC age test. He may be your QR if the gross income and support tests are met.

Member of Household Or Relationship Test

The person either (a) must be related to you in one of ways listed under *Relatives who do not have to live with you*, found on page 14 of 2005 IRS Publication 501, or (b) must live with you all year as a member of your household, and the relationship between you and that person does not violate local law.

Gross Income Test

- To meet this test the person's gross income for the year must be less than \$ 3,200.
- There is an exception if the person is disabled and has income from a sheltered workshop.

Support Test

- You generally must provide > then half of a person's total support.
- There is an exception for multiple support agreements (IRS form 2120).
- *Worksheet for Determining Support* found in *2005 IRS Publication 501* is very helpful.

Special Rules For Hurricane Katrina Victims For 2005 Tax Returns

Government or charitable assistance you received because of your temporary relocation due to Hurricane Katrina is not included in total support.

Special \$ 500 exemption – see IRS Form 8914 or IRS *Publication 4492*.

If your child enrolled in school before 8/25/05, the child is treated as a student for any month of the enrollment period he or she was unable to attend classes because of Hurricane Katrina.

New Definition of QC (Filing Status, Exemptions, and Credits)

Generally must meet these tests:

- Relationship (child, sibling, or descendant of either – including adopted child or foster child).
- Residency ($> \frac{1}{2}$ year).
- Under age 19, under 24 if student; any age if permanently and totally disabled.
- Child did not provide $> \frac{1}{2}$ of own support (except EIC).
- Tie-breaker rules apply if more than one person claims the same QC.

Child Tax Credit

- Child must be QC under age 17.
- Child must be a U.S. citizen, national, or resident (except for an adopted child residing in the household of the taxpayer who is a U.S. citizen or national).
- If the taxpayer is not the taxpayer's dependent new **Form 8901** must be filed.

Child and Dependent Care Credit

A qualifying person is your:

- QC under age 13 who is your dependent, or
- Dependent (or spouse) physically or mentally incapable or caring for himself or herself who lived with you for $>$ then $\frac{1}{2}$ the year.

If the special dependency test for divorced parents applies, the child is treated as a qualifying person only for the custodial parent. The taxpayer no longer must pay over $\frac{1}{2}$ the cost of keeping up a home for the qualifying person.

Head of Household Filing Status

To claim head of household status, taxpayer must be unmarried or legally separated and maintain either:

- A home in which taxpayer resides for more than $\frac{1}{2}$ the year with a:
 - QC (but not if the special rule for divorced parents applies OR the child is married and is not a dependent because of the joint return or citizenship test) **or**
 - Dependent (unless a dependent only because he or she resided entire year with taxpayer or was claimed under a multiple support agreement).
- The main home of the taxpayer's parent, who can be claimed as a dependent.

Summary

- Dependents will be defined as;
 - Qualifying Children (**QC**)
 - Qualifying Relative (**QR**)
- All child related tax benefits will be based on the QC/QR concepts however exceptions still apply.